



Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, OCTOBER 5, 2004
WWW.USDOJ.GOV

AT
(202) 514-2007
TDD (202) 514-1888

U.S. AND CANADA SIGN AGREEMENT TO PROVIDE FOR ENHANCED INTERNATIONAL ANTITRUST COOPERATION

WASHINGTON, D.C. – Representatives of the United States and Canada today signed an agreement enhancing the process under which they will refer cases of anticompetitive activities to each other's authorities for appropriate law enforcement action. U.S. Attorney General John Ashcroft and Federal Trade Commission Chairman Deborah Platt Majoras represented the United States, and the Canadian Ambassador to the United States, Michael Kergin, represented Canada at the signing ceremony.

Also attending the signing ceremony were R. Hewitt Pate, Assistant Attorney General in charge of the Justice Department's Antitrust Division, and Sheridan Scott, Commissioner of Canada's Competition Bureau.

"In our global economy, cooperation with other governments on antitrust matters is essential," said Attorney General Ashcroft. "Today's agreement enhances cooperation between the United States and Canada, and has significantly improved each nation's ability to enforce the law."

Positive comity agreements, such as the agreement signed today, allow antitrust enforcers in one country to request that the other country's antitrust agency investigate and take appropriate law enforcement action against anticompetitive conduct that adversely affects the interests of the country requesting the investigation and violates the laws of the country responding to the request. The agreement signed today builds on the positive comity provision in the 1995 antitrust enforcement cooperation agreement between the U.S. and Canada and provides for more efficient application of the two countries' enforcement resources.

The agreement signed today is very similar to the agreement signed by the U.S. and the European Communities in 1998, and establishes conditions under which the requesting country will normally agree to defer initiating its own enforcement activity. The enhanced agreement aims to reduce the likelihood of duplicate enforcement actions in cases where positive comity requests are made. However, nothing in the agreement prohibits the party making the request from bringing its own enforcement action if the requesting party believes doing so is necessary in order to protect consumers in its country.

The new agreement identifies the types of cases one party will normally refer to the other and lists the obligations the competition authorities will undertake in handling these cases. Specifically, the agreement provides that, in cases where the process is invoked, the requesting

party will defer or suspend its enforcement activities in favor of a positive comity referral to the other country where the foreign anticompetitive activities do not directly or principally affect the requesting party's consumers.

"This new agreement is particularly welcome in the U.S.-Canadian relationship, where the parties have a long history of cooperation, respect, and confidence in each other's enforcement regimes," said Assistant Attorney General Pate. "Developing appropriate principles of comity to avoid duplicative and conflicting enforcement activity is increasingly important in today's global economy."

Under the agreement, each side pledges to devote its best efforts and resources to investigate referred matters and inform the other side's competition authorities on the status of the cases resulting from a referral. Both sides have also agreed that some circumstances will justify parallel investigations – although neither side waives its authority to initiate its own antitrust enforcement actions. Additionally, the new agreement does not apply to merger or cartel investigations. Finally, the agreement stipulates that confidential information may be shared only where the source of the information has consented.

###